

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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MARC GRANO, as personal  
representative of the WRONGFUL  
DEATH ESTATE OF JONATHAN  
ANDREW GARCIA, and a Next Friend  
to J.O.G., A.S.R., An.J.G., and Ar.J.G.,

Plaintiff,

vs.

STATE OF NEW MEXICO, GREGG  
MARCANTEL, New Mexico Secretary of  
Corrections, DAVID JABLONSKI, New  
Mexico Secretary of Corrections,  
CLARENCE OLIVAS, Deputy Warden  
of Penitentiary of New Mexico, BRIAN  
LUCERO, Corrections Officer, FNU  
MARTINEZ, Corrections Officer,  
FNU BACA, Captain, Corrections  
Officer, FNU WELLS, Sergeant,  
Corrections Officer, and JOHN DOES 1  
through 5, employees, staff, agents of  
Penitentiary of New Mexico,

Defendants.

No. 1:20-cv-00147-PJK-KK

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**ORDER ON JULY 8, 2021 STATUS CONFERENCE**

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THIS MATTER came on for an in-person status conference in Albuquerque, New Mexico on July 8, 2021. Anna Martinez and Joseph Romero appeared for the Plaintiff.

Donald Wood and Rodney Gabaldon appeared for the Defendant. Upon consideration thereof,

(1) Plaintiff's Motion for Leave to Withdraw Admissions filed June 7, 2021 (ECF No. 57) was argued and the court granted the motion. The court concluded that allowing the Plaintiff leave to withdraw his admissions would promote the presentation of the merits of the action. See Fed. R. Civ. P. 36(b). Further, Defendant has not demonstrated the type of prejudice contemplated by Rule 36(b). See Raiser v. Utah Cnty., 409 F.3d 1243, 1246 (10th Cir. 2005).

(2) Defendants' Motion for Summary Judgment filed May 10, 2021 (ECF No. 52) was argued and the court denied the motion. The admissions at issue are the sole basis for the Defendants' Motion for Summary Judgment. See ECF No. 52. Those admissions have now been withdrawn.

NOW, THEREFORE, IT IS ORDERED that Plaintiff's Motion for Leave to Withdraw Admissions (ECF No. 57) is GRANTED and Defendants' Motion for Summary Judgment (ECF No. 52) is DENIED.

DATED this 13th day of July 2021, at Santa Fe, New Mexico

/s/ Paul Kelly, Jr.  
United States Circuit Judge  
Sitting by Designation